FILED
APR 26, 2004
CATHY A. CATTERSON,
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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE VICENTE SANCHEZ,

Appellee,

vs.

MINSON CORPORATION,

Appellant

Case No.:
No. 03-56054

D.C. NO.
CV-02-06078
-MLR

MEMORANDUM*

Appeal from the United States District Court
For the Central District of California
Manuel L. Real, District Judge, Presiding

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Submitted April 12, 2004**

Before: O'SCANNLAIN, RYMER, and BEA, Circuit Judges.

Jose Vicente Sanchez appeals pro se from the district court's order dismissing his employment discrimination action for failure to prosecute. We review for abuse of discretion a dismissal for failure to timely serve the summons and complaint, Walker v. Sumner, 14F.3d 1415, 1422 (9th Cir. 1994), and we affirm.

The district court properly dismissed the action without prejudice to refiling, because Sanchez failed properly to serve a summons and complaint on the defendant corporation within 120 days, *see* Fed. R. Civ. P. 4(k); Cal. Civ. Proc. §§ 415.10 & 415.20, or show good cause for this failure, *see* Fed. R. Civ. P. 4(m); *Hamilton v. Endell*, 981 F.2d 1062, 1065 (9th Cir. 1992) ("inadvertent error or ignorance of governing rules alone will not excuse a litigant's failure to effect timely service.").

To the extent that we construe Sanchez's opening brief to move for appointment of counsel, we deny this motion, because a review of the record indicates that this appeal lacks sufficient merit to warrant the appointment of counsel. *See Bradshaw v.*

Zoological Soc'y of San Diego, 662 F.2d 1301, 1318 (9th Cir. 1981).

AFFIRMED.